IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 6971 OF 2006

Dhan Rusi Driver.. ... Petitioner.

Versus

Parviz Dadabhai Zaiwala..... Respondent.

None for the parties.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

None present for the parties.

2. Regular Civil Suit No. 51 of 1999 which was filed for seeking decree of eviction on the ground of arrears of rent and bonafide requirement came to be dismissed by the learned Civil Judge, Junior Division, Dahanu by order dated 31st March, 2003. Aggrieved by the said judgment and order, the plaintiff filed Appeal No. 41 of 2003 which came to be allowed by the learned 3rd Ad-hoc Additional Sessions Judge, Palghar, vide his judgment and order dated 16th August, 2006 and the defendant was directed to vacate the suit premises within one month from the date of order and

handover possession to the plaintiff.

3. In this writ petition the judgment and order passed by the lower appellate court allowing the appeal and passing the decree of eviction under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

5. The status order granted earlier will continue to operate for a period of two weeks more from today.

6. Annexures to the petition memo be returned, if applied for.

7. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)